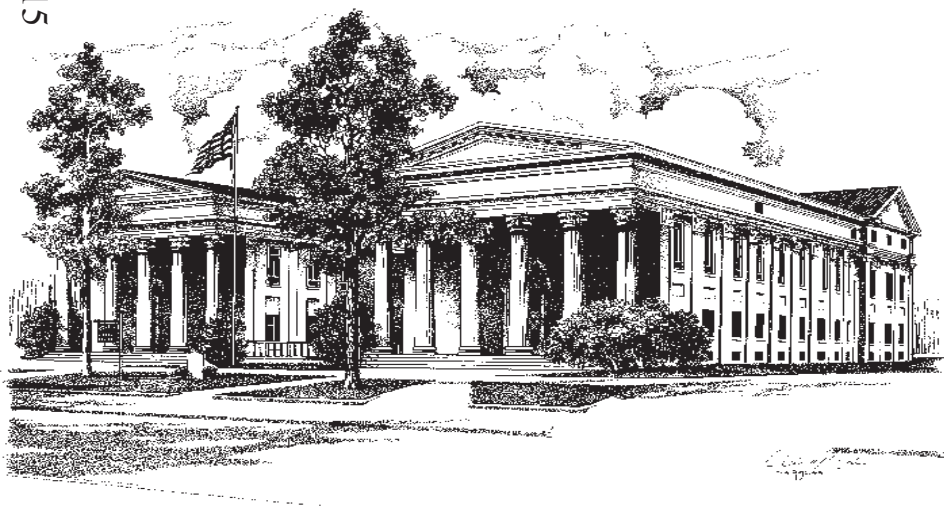


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Legal
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December 18, 2015

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R.L.R. v. S.P.S.

Erie County Legal Journal

*Reporting Decisions of the Courts of Erie County
The Sixth Judicial District of Pennsylvania*

Managing Editor: Heidi M. Weismiller

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In Memoriam

Matthew J. McLaughlin

February 6, 1961 - December 3, 2015

Matthew J. McLaughlin, Esq., age 54, died Thursday, December 3, 2015. He was born on February 6, 1961, the son of the late John M. and Mary Lou (Sitterle) McLaughlin. He graduated from Cathedral Preparatory School, received his B.A. from Georgetown University and his J. D. from Dickinson School of Law.

He was a partner in the firm of Ridge & McLaughlin and maintained an active civil practice specializing in personal injury, medical malpractice and workers' compensation claims. Matt was highly regarded by the Bench and Bar and received the highest rating (AV) from Martindale-Hubbell for professional competence.

In addition to his litigation practice, he served as a Hearing Examiner for the Erie County Human Relations Commission. At the time of his death, he was also the Solicitor for the Erie County Convention Center Authority and an assistant Solicitor for Erie County.

Throughout his career, Matt remained active in the community. He was a member of the Board of the Barber National Institute and served as a Board member of the Mercy Center for Women.

In addition to his parents, he was preceded in death by two brothers, John B. and Gerard P. McLaughlin.

Matt is survived by his brother, the Honorable Sean J. McLaughlin and his wife, Annie; and a sister, Maura M. McLaughlin and Daniel Maloney, all of Erie. He is also survived by a niece, Attorney Catherine McLaughlin; as well as five cousins.

Memorials may be made to the Barber National Institute, 100 Barber Pl., Erie, PA 16507.



PUBLIC NOTICE FOR APPOINTMENT OF NEW MAGISTRATE JUDGE

The Judicial Conference of the United States has authorized the appointment of a full-time United States magistrate judge for the Western District of Pennsylvania at Erie, Pennsylvania to fill the anticipated vacancy that will be created when the Senate confirms President Obama’s nomination of Magistrate Judge Susan Paradise Baxter to serve as a United States District Court Judge on this court. The essential function of courts is to dispense justice. An important component of this function is the creation and maintenance of diversity in the court system. A community’s belief that a court dispenses justice is heightened when the court reflects the community’s racial, ethnic, and gender diversity.

The duties of the position are demanding and wide-ranging: (1) conduct of most preliminary proceedings in criminal cases; (2) trial and disposition of misdemeanor cases; (3) conduct of various pretrial matters and evidentiary proceedings on delegation from a district judge; and (4) trial and disposition of civil cases upon consent of the litigants. The basic authority of a United States magistrate judge is specified in 28 U.S.C. § 636. The current annual salary of the position is \$185,012. The term of office is eight years.

Application forms and more information on the magistrate judge position in this court may be obtained from the clerk of the district court, Robert V. Barth, Jr., 3110 U.S. Courthouse, 700 Grant Street, Pittsburgh, PA 15219. The form is also available on the court’s Internet website at www.pawd.uscourts.gov under “News & Announcements.” Applications must be submitted only by applicants personally and **must be received by 4:00 p.m. on January 4, 2016** in any courthouse in the Western District of Pennsylvania by mail or in person and should be marked “**MJ Applicant-Confidential.**” All applications will be kept confidential, unless the applicant consents to disclosure, and all applications will be examined only by members of the merit selection panel and the judges of the district court. The panel’s deliberations will remain confidential.

Dec. 11, 18

NOTICE

Beginning January 2016, the Court of Common Pleas for the Sixth Judicial District has implemented the following custody trial term for the first quarter of 2016 to resolve requests for adversarial hearings:

- January 11-15, 2016
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- March 14-18, 2016

If you have any questions, please contact Court Administration at (814) 451-6308.

Dec. 18



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R. L. R., Plaintiff/Appellee
v.
S. P. S., Defendant/Appellant

FAMILY LAW / CHILD SUPPORT, STANDARD OF REVIEW

The standard of appellate review of child support matters has not changed; a review court must apply an *abuse of discretion* standard. “Abuse of discretion” is not merely an error of judgment, but if in reaching a conclusion the law is overridden or misapplied or the judgment exercised is manifestly unreasonable, or the result of partiality, prejudice, bias or ill-will, as shown by the evidence or the record, discretion is abused.

FAMILY LAW / CHILD SUPPORT, STANDARD OF REVIEW

A support order will not be disturbed on appeal unless the Trial Court failed to consider properly the requirements of the Rules of Civil Procedure Governing Actions for Support, Pa. R. Civ. P. 1910.1 *et seq.*, or abused its discretion in applying these Rules.

APPELLATE PROCEDURE / GENERALLY

Chapter 17 of the Pennsylvania Rules of Appellate Procedure governs the effects of appeals, supersedeas, and stays.

APPELLATE PROCEDURE / GENERALLY

Rule 1701 of the Pennsylvania Rules of Appellate Procedure states that after an appeal is taken or review of a quasi-judicial order is sought, the trial court or other government unit may no longer proceed further in the matter.

APPELLATE PROCEDURE / CLARIFICATION/MODIFICATION OF ORDER

A trial court or other government unit has the limited authority after an appeal or review of a quasi-judicial order to take action necessary to preserve the status quo; correct formal errors in papers relating to the matter; cause the record to be transcribed, approved, filed and transmitted; grant leave to appeal *in forma pauperis*; grant supersedeas; and take other actions permitted by the Rules of Appellate Procedure.

APPELLATE PROCEDURE / CLARIFICATION/MODIFICATION OF ORDER

Subdivision (b)(1) of Pa. R. A. P. 1701 sets forth the obvious authority of the lower court or agency under these rules to take appropriate action to preserve the status quo and to clarify or correct an order or verdict. Examples of permissible corrections are “non-substantial technical amendments to an Order, changes in the form of a decree, and modification of a verdict to add pre-judgment interest.”

APPELLATE PROCEDURE / CLARIFICATION/MODIFICATION OF ORDER

Where an adjudicator's action does not require the exercise of discretion, the computation is a clerical matter based on the face of the record and no fact finding is required, the amendment to an order under appeal is allowed. Such actions have no effect on the appeal or petition for review and cannot prompt a new appealable issue.

APPELLATE PROCEDURE / CLARIFICATION/MODIFICATION OF ORDER

A trial court may modify or rescind any order within thirty days after its entry, if no appeal has been taken; however, once a notice of appeal is filed, this Trial Court cannot take further action in the matter, pursuant to Pa. R. A. P. 1701(a). However, this rule must be read in conjunction with the inherent power of a trial court to amend its records, to correct mistakes of the clerk or other officer of the court, inadvertencies of counsel, or supply defects or omissions in the record, even after the lapse of the thirty day time limit.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA
PACSES No. 921113743 Docket No. NS201300044 1341 & 1645 WDA 2014

Appearances: Isaac W. Pineo, Esq., on behalf of S. P. S., Appellant
 R. L. R., *Pro Se*, Appellee

OPINION

Domitrovich, J.,

October 14th, 2014

This Child Support case is currently before the Superior Court of Pennsylvania on the appeal of S. P. S. (hereafter referred to as “Appellant”) from this Trial Court’s Final Order dated July 15, 2014, wherein the child support obligation for the parties’ minor child, X. S. (DOB 8/21/09) of \$546.35 per month, plus \$24.06 per month for arrears, was established based on Appellant’s stipulated current monthly net income of \$3,093.38 at the time of the *de novo* hearing and this Trial Court’s finding of Appellee’s current monthly net income of \$1,601.79 as a part-time personal trainer for the elderly and a part-time bartender, and was appropriate after review of Appellant’s and R. L. R.’s (hereafter referred to as “Appellee”) updated 2014 monthly net income information and her credible testimony and the evidence presented. Appellant further appealed this Trial Court’s Clarification Order dated August 21, 2014, which corrected the Erie County Domestic Relations two computer clerical errors within the Interim Order dated effective April 10, 2014, but signed by this Trial Court contemporaneously with the Final Order dated July 15, 2014, as the parties’ monthly net incomes were accidentally pulled by the computer from the Final Order of the year 2013 and defaulted into the Interim Order dated effective April 10, 2014. By the Clarification Order dated August 21, 2014, Appellant’s monthly net income was thereby correctly stated at the updated 2014 monthly net amount of \$3,093.38, rather than the 2013 monthly net amount of \$2,455.38, and Appellee’s monthly net income was correctly stated at the updated 2014 monthly net amount of \$1,601.79, rather than the 2013 monthly net amount of \$2,171.05. Overall, the final result – the \$546.35 for Appellant’s monthly child support obligation – remained the same as this Trial Court had used initially the correct figures for the monthly child support calculations.

A. Factual and Procedural History

The factual and procedural history of this case is as follows: Appellee, *pro se*, initially filed a Complaint for Support – New Complaint on January 11, 2013 requesting an Order be entered against Appellant and in favor of Appellee on behalf of the minor child, X. S. (DOB 8/21/09) for reasonable child support, medical coverage, and child care expenses. By Order of Court dated January 15, 2013, Appellee and Appellant were directed to appear at the Erie County Domestic Relations Office for a conference hearing on February 11, 2013 at 9:00 a.m. The conference was held on February 11, 2013 to address Appellee’s Complaint for Child Support. Appellant appeared and was represented by Jennifer B. Hirneisen, Esquire, on behalf of Appellant’s then-counsel, Kimberly A. Oakes, Esquire. Appellee, *pro se*, failed to appear and failed to contact the Domestic Relations Office to explain her absence. The conference officer recommended, due to Appellee’s failure to pursue the Complaint for Support, the Complaint should be dismissed. By Order of Court dated February 11, 2013, Appellee’s Complaint for Support was dismissed, and court costs were assessed to Appellee and said case was closed.

Appellee, *pro se*, filed a second Complaint for Support – New Complaint on March 13, 2013 requesting an Order be entered against Appellant and in favor of Appellee and the minor child for reasonable child support, medical coverage, and day care expenses. By Order of Court dated March 15, 2013, Appellee and Appellant were directed to appear at the Erie County Domestic Relations Office for a support conference hearing on April 4, 2013 at 1:15 p.m. The conference was held on April 4, 2013 to address Appellee’s Complaint for Support. After an agreement was reached between Appellant and Appellee, the Final Order of Court dated April 4, 2013 was entered as follows based on Appellant’s 2013 monthly net income of \$2,455.38 and Appellee’s 2013 monthly net income of \$2,171.05: Appellant would pay child support in the amount of \$175.94 per month for one minor child, which would include child care, insurance premium adjustment, and 50/50 custody; Appellant additionally would remit \$24.06 per month towards arrears; Appellant would continue to provide medical coverage for the minor child through his employment; and the Order would be effective March 13, 2013, the date of filing, but the Order of Court was signed April 4, 2013. It is important to note that this Order of Court dated April 4, 2013 calculated the monthly child support obligation using Appellee’s monthly net income of \$2,171.05 and Appellant’s monthly net income of \$2,455.38, which were appropriate at that time for the parties’ 2013 income in March of 2013.

This instant appeal before the Pennsylvania Superior Court involves Appellee filing a Petition for Modification of the Existing Support Order, almost a year later on March 6, 2014, requesting an increase in child support as her reported income had decreased and alleging Appellant had additional income he did not report. Appellee also requested Appellant pay a portion of the day care expenses and correct an issue with the health insurance Appellant had provided. By Order of Court dated March 7, 2014, Appellee and Appellant were directed to appear at the Domestic Relations Office for a conference on March 31, 2014 at 1:30 p.m. By Order of Court dated March 19, 2014, the above-referenced conference was rescheduled to April 9, 2014. On April 10, 2014, the Conference Officer’s Summary of Trier of Fact was filed (See Exhibit C) through the Domestic Relations Office, whereby the child support obligation of \$546.35 per month, plus \$24.06 per month for arrears for a total support obligation of \$570.41 per month, and was derived from Appellee’s monthly net income of \$1,601.79 and Appellant’s monthly net income of \$3,093.38¹. The initial Interim Order *per curiam* with the effective date of April 10, 2014 was then entered.²

¹ This Court notes that, due to a computer clerical error, the Interim Order dated April 10th, 2014 incorrectly and mistakenly stated Appellee’s monthly net income as \$2,171.05, rather than \$1,601.79, and Appellant’s monthly net income as \$2,455.38, rather than \$3,093.38. These clerical errors were present at the time the *per curiam* Interim Order was initially entered on April 10, 2014 by the Domestic Relations Office; moreover, the current monthly child support obligation was correctly stated as \$546.35 per month on this Interim Order as well as within the Conference Officer’s Summary of Trier of Fact. However, as soon as the clerical errors were discovered by the Domestic Relations Office, this Trial Court immediately clarified and corrected the computer clerical errors concerning the monthly net incomes of the parties without substantially or substantively affecting the final result - the monthly child support obligation of \$546.35.

² The Interim Order dated effective April 10, 2014 correctly reflected the said monthly child support obligation amount of \$546.35, plus a monthly arrears payment of \$24.06, for a total monthly child support obligation of \$570.41; however the computer pulled by accident the parties’ previous year’s monthly net incomes and reflected these amounts, although these 2013 monthly net incomes were not used to derive the \$546.35 per month for child support.

On April 28, 2014, Appellant filed a Demand for a *de novo* hearing before the undersigned trial judge, alleging Appellee was under-reporting her income, she was receiving money in tips that was not accounted for, and she was voluntarily under-employed and should be assessed income-based on full-time employment. By Order of Court dated April 30, 2014, Appellee and Appellant were directed to appear before this Trial Court for a *de novo* hearing on June 5, 2014 at 3:00 p.m. On May 27, 2014, Appellant's counsel, Isaac W. Pineo, Esq., filed a Motion to Continue, citing counsel's unavailability for the *de novo* hearing, which was granted by this Trial Court on May 30, 2014. By Order of Court dated June 3, 2014, the above-referenced *de novo* hearing was rescheduled to July 11, 2014. On July 11, 2014, this Trial Court heard testimony from both parties and admitted evidence requested by the parties during a full *de novo* hearing, at which Appellee appeared *pro se* and Appellant appeared with his counsel, Isaac W. Pineo, Esq. By Order of Court dated July 15, 2014, the Interim Order dated April 10, 2014, with the monthly child support obligation of \$546.35, was made final and the monthly child support obligation of \$570.41, which included an arrears amount of \$24.06, remained intact as the appropriate amount for Appellant to pay in monthly child support.

Appellant filed his Notice of Appeal to the Pennsylvania Superior Court, appealing the Final Support Order dated July 15, 2014, and his Statement of Matters Complained of on Appeal on August 13, 2014. This Trial Court filed its 1925(b) Order on August 13, 2014.³ This Trial Court filed a Clarification Order on August 21, 2014, wherein the Court explained that two computer clerical errors were made through the Domestic Relations Office, and this Trial Court procedurally corrected only the monthly net incomes stated on the Interim Order dated April 10, 2014, consistent with the monthly net incomes from which the monthly child support Order of \$546.35 was derived.⁴ Appellant filed a second Notice of Appeal to the Pennsylvania Superior Court, appealing this Trial Court's Clarification Order dated August 21, 2014, on September 12, 2014. Appellant filed a second Statement of Matters Complained of on Appeal on September 29, 2014.

B. Issues Raised by Appellant

In his first Pa. R.A.P. 1925(b) Concise Statement of Matters Complained of on Appeal, Appellant complains the appropriate child support obligation is \$214.59 per month, although he based his figures on the two computer clerical errors, the incorrect 2013 monthly net incomes for the parties, instead of the 2014 updated monthly net incomes and also based on his incorrect application of the "Substantial or Shared Physical Custody Adjustment" pursuant to Rule 1910.16-4 of the Pennsylvania Rules of Civil Procedure. In his second Pa. R.A.P. 1925(b) Concise Statement of Matters Complained of on Appeal, Appellant complains this

³ Pursuant to Pennsylvania Rule of Appellate Procedure 1925(b), this Trial Court directed Appellant file a Concise Statement of Errors Complained of on Appeal by Order of Court dated August 13, 2014, even though Appellant filed his Concise Statement prior to this Court's 1925(b) Order.

⁴ This Trial Court notes that, although the monthly net incomes on the Interim Order dated April 10, 2014 were clarified and corrected, all other aspects of the Interim Order, including the monthly child support obligation of \$546.35, were correct and remained in full force and effect, and this Trial Court notes that the initial 2014 Interim Order before the *de novo* hearing also had the mistaken 2013 monthly net incomes added and that the parties could have seen that these amounts on the *per curiam* Interim Order were inconsistent with the 2014 Summary of Trier of Fact.

Trial Court was without continuing jurisdiction to make any necessary procedural changes to the Interim Order dated April 10, 2014, although as this Interim Order remained on the record before the demand for *de novo* hearing with these two patent computer errors, the parties did not request to correct these errors; therefore, this Trial Court, after the *de novo* hearing and after being notified by the Domestic Relations Office of these two clerical errors, corrected these two errors immediately, which did not affect the final result – the monthly child support obligation amount of \$546.35, plus \$24.06 per month for arrears for a total monthly child support obligation of \$570.41 – because this Trial Court used the correct monthly net incomes for these child support calculations. Appellant argues said changes to the Interim Order were made after an appeal had been taken, and he claims directly affected the “substance” of his appeal and, therefore, he considers the changes as substantive, rather than clerical as stated by this Trial Court.

After a thorough review of relevant statutory and case law, this Trial Court finds both of Appellant’s arguments are without merit and will address each argument as follows.

1. This Trial Court did not abuse its discretion in entering its Final Order dated July 15th, 2014, whereby the child support in the amount is \$546.35 per month was established, and in contemporaneously signing the Interim Order with the effective date of April 10th, 2014, the date of filing the Petition for Modification.

The standard of appellate review of child support matters has not changed; a review court must apply an *abuse of discretion* standard. *Ball v. Minnick*, 648 A.2d 1192, 1196 (Pa. 1994). “Abuse of discretion” is not merely an error of judgment, but if in reaching a conclusion the law is overridden or misapplied or the judgment exercised is manifestly unreasonable, or the result of partiality, prejudice, bias or ill-will, as shown by the evidence or the record, discretion is abused. *See Ashbaugh v. Ashbaugh*, 627 A.2d 1210, 1213 (Pa. Super. 1993). A support order will not be disturbed on appeal unless the Trial Court failed to consider properly the requirements of the Rules of Civil Procedure Governing Actions for Support, Pa. R. Civ. P. 1910.1 *et seq.*, or abused its discretion in applying these Rules. *Ball*, 648 A.2d at 1196.

During the full *de novo* hearing on July 11, 2014, this Trial Court heard testimony and received evidence. Appellant’s counsel, Isaac W. Pineo, Esq., stipulated and confirmed that Appellant’s net income is \$3,093.38 per month, as taxes are not applicable to disability income. *Transcript of De Novo Hearing, July 11, 2014, pg. 5, lines 10-12, 18-20*. Appellee R. L. R. indicated to this Trial Court she is employed as a part-time personal trainer for the elderly and her service included nutritional counseling, program writing, and hands-on personal training and spends nine (9) hours per week training her elderly clients at their homes and eleven (11) hours per week training her elderly clients at her home, for a total of twenty (20) hours per week at \$17.50 per hour. *Transcript, pg. 6, lines 8-23*. Appellee further indicated she is employed as a part-time bartender at the Avonia Tavern and works Wednesday evenings and every other Sunday evening between six (6) to twelve (12) hours per week. *Transcript, pg. 7, line 23 – pg. 8, line 11*. Appellee estimated her total hours of work per week between twenty-eight (28) and thirty-two (32) hours. *Transcript, pg. 8, lines 12-14*. During cross-examination, Appellee stated her average monthly gross income from personal training is \$1,500. *Transcript, pg. 19, lines 19-22*. Appellee also confirmed her average monthly gross income from the Avonia Tavern is \$605.93. *Transcript, pg. 23, lines*

4-14. Appellee stated that with her part-time personal training, her summers are busier than her winters as she primarily works with elderly individuals, who she refers to as “snowbirds.” *Transcript, pg. 25, lines 21-25.* Appellee estimated her expenses to be \$340 per month for groceries, \$1,030 per month for mortgage, \$99 per month for sewage/garbage, \$65 per month for electricity, \$20 per month for internet, \$45 per month for her cell phone, \$200 per month for auto insurance, \$160 per month for gas, \$228 per month for child care, \$98 per month for heat, and \$25 per month for clothes for minor child, Xander, which Appellee agreed totaled \$2,321 per month for total expenses. *Transcript, pg. 33, line 2 – pg. 38, line 6.* Appellee stated she has late fees, is one and a half months behind on her mortgage, and is frequently behind and not getting her bills paid. *Transcript, pg. 38, lines 7-8, 16-17.* In his closing argument, Attorney Pineo once again stipulated to Appellant’s net income of \$3,093.38 per month. *Transcript, pg. 39, lines 23-24.* Attorney Pineo indicated the parties share physical custody of the minor child, X. S., and referenced Rule 1910.16-4, which allows for a reduction in Appellant’s monthly child support obligation because Appellant has custody of the minor child at least 40% of the time.⁵ *Transcript, pg. 42, line 22 – pg. 43, line 4.* In her closing argument, Appellee stated that her summers are busier because her clients, “snowbirds,” have returned to Erie County; she struggles very hard through the winter; it takes her all summer to get caught up on her bills; and she has no disposable income. *Transcript, pg. 45, lines 19-24.* This Trial Court also received into evidence Appellee’s income 2012 tax records and her current paystubs from the Avonia Tavern. Based on Appellant’s counsel’s stipulation as to Appellant’s monthly income, Appellee’s credible testimony of her monthly income and expenses, and the evidence received, this Trial Court accepted Appellant’s stipulated monthly net income is \$3,093.38 and found Appellee’s monthly net income is \$1,601.79. Therefore, this Trial Court found the Interim Order dated April 10, 2014, wherein a monthly child support obligation of \$546.35 was established, was appropriately calculated pursuant to the Pennsylvania Rules of Civil Procedure using the 2014 monthly net incomes found by this Trial Court and entered a Final Order dated July 15, 2014. When the Interim Order was made final, this Trial Court was not aware that the computer mistakenly indicated the parties’ 2013 monthly net incomes instead of the parties’ updated 2014 net incomes, although the appropriate 2014 monthly net incomes were used in the calculations with the computer

Appellant alleges, pursuant to Pennsylvania Rule of Civil Procedure 1910.16-3, the parties’ guideline monthly child support obligation should be \$933.00 per month, based upon figures that do not appear on the record for the parties’ monthly incomes in 2014. Appellant alleges an unstipulated amount of Appellee’s 2013 monthly net income of \$2,171.05 and alleges an unstipulated amount of Appellant’s 2013 monthly net income of \$2,455.38, providing a combined monthly net income of \$4,626.43. Appellant further alleges his share of this guideline monthly child support obligation is \$494.49, which represents 53% of \$933.00.

Finally, Appellant alleges, based upon the “Substantial or Shared Physical Custody Adjustment” of Pa. R. Civ. P. 1910.16-4, his percentage of the guideline monthly child support obligation should be reduced by 30% as both parties share equal custody of the minor child; therefore, Appellant alleges his share of the guideline child support obligation is

⁵ This Trial Court acknowledged the parties share custody of the minor child and provides Appellant an appropriate reduction for Appellant in considering the monthly child support obligation.

23% of \$933.00, or \$214.59 per month, based upon the parties' 2013 monthly net incomes, instead of the appropriate monthly net incomes for 2014.

Appellant's arguments rests upon the procedurally defective Interim Order dated April 10, 2014, which, due to computer clerical errors in the Erie County Domestic Relations computer system, incorrectly reflected Appellant's 2014 monthly net income as \$2,455.38 and Appellant's 2014 monthly net income as \$2,171.05 instead of the proper 2014 monthly net amount of \$3,093.38 for Appellant as stipulated by Appellant's counsel and the proper 2014 monthly net amount of \$1,601.79 for Appellee as this Trial Court had found after the full *de novo* hearing on July 11, 2014. According to the Domestic Relations personnel, in an e-mail attached hereto as Exhibit A, when the calculations were performed on the Pennsylvania Child Support Program computer system (hereafter referred to as "PACSES") for the instant case, the calculations were not saved in the system before the conference officer generated the Order into "Forms Workspace," the area in PACSES where the conference officer can add conditions onto a New Order, an Interim Order, or a Modified Order. If a conference officer does not save the current calculations into PACSES before sending a New, Interim, or Modified Order, the most recent incomes saved in PACSES default into the current Order. Prior to the Interim Order dated April 10, 2014, a Final Order dated **April 4, 2013** existed in PACSES for the instant case and according to said Final Order, Appellant's 2014 monthly net income was mistakenly reflected as \$2,455.38 and Appellee's 2014 monthly net income was mistakenly reflected at \$2,171.05. Therefore, because the conference officer inadvertently did not save the most recently calculated incomes for the Interim Order dated April 10, 2014, i.e., \$3,093.38 monthly net income per month for Appellant and \$1,601.79 monthly net income per month for Appellee, the 2013 monthly net incomes reflected on the Final Order dated April 4, 2013 were incorporated by default into the procedurally defective Interim Order dated April 10, 2014. These two computer clerical errors, caused solely within the PACSES system, were not within this Trial Court's control and do not amount to an abuse of discretion by this Trial Court. In fact, the Conference Summary of Trier of Fact, drafted by the conference officer following the April 9, 2014 support conference and made readily available to both parties and counsel, clearly stated the correct amounts of the most recent monthly incomes reported by the parties reflecting a 2014 monthly net income of \$3,093.38 for Appellant and a 2014 monthly net income of \$1,601.79 for Appellee. (See Exhibit C). Furthermore, the incorrect 2013 monthly net incomes reflected in the Interim Order as 2014 monthly net incomes were not made on the date of the Final Order dated July 15, 2014; rather, these incorrect monthly net incomes were reflected in the Interim Order on the date of April 10, 2014. Following the support conference hearing on April 9, 2014, the Erie County Domestic Relations Office entered the Interim Order *per curiam*, i.e., without reference to a specific judge, as is custom in Erie County. Following the *de novo* hearing on July 11, 2014, this Trial Court entered its Final Order dated July 15, 2014, whereby this Interim Order was made Final, without this Trial Court having knowledge of the procedurally defective Interim Order at the time as to the incorrect monthly net incomes were reflected, but continued to state the correct monthly child support obligation. However, Appellant was privy to the procedurally defective Interim Order, as Appellant and Appellee who were present at the April 9, 2014 support conference and would have subsequently received the procedurally defective Interim Order, and would have been aware of the incorrect 2013

monthly net incomes placed on the Order, which then Appellant and his counsel or the Appellee could have made this Trial Court aware of at the time of the *de novo* hearing. Finally, Appellant's counsel himself affirmed Appellant's net income at the beginning of the *de novo* hearing, stating:

THE COURT: I first want to start off, does anyone – do you stipulate as to Defendant's income? Because everything seems to focus on Plaintiff's income.

MR. PINEO: That's correct. He gets paid in a very systematic way through the Department of Corrections, and the \$3,093 is active.

THE COURT: Is that correct, ma'am?

R. L. R.: I guess so, yes, to my knowledge.

THE COURT: So are you going to stipulate to that so we're not going to litigate that today?

R. L. R.: Yes.

THE COURT: How much is it, Attorney Pineo? I have \$3,093.38?

MR. PINEO: That's correct.

Transcript, pg. 5, lines 7-20.

In addition, although the monthly net incomes reflected on the Interim Order dated April 10, 2014 were incorrect, the current monthly child support obligation of Appellant was calculated correctly as confirmed by the computer system in the Erie County Domestic Relations Office in the e-mail dated August 19, 2014. (See Exhibit A). According to the calculations performed in PACSES by the support conference officer following April 9, 2014 support conference hearing, attached hereto as Exhibit B, Appellant received non-taxable disability net income in the amount of \$3,093.38 per month. Appellee received wages in the gross amount of \$605.93 per month and also received self-employment gross income of \$1,368.75 per month, which equaled \$1,974.68 of total gross income per month. However, Appellee's total gross monthly income is taxed in the following amounts: \$62.21 in state taxes, \$22.71 in local taxes, \$37.57 in FICA taxes, \$45.45 in Medicare taxes, \$48.21 in federal taxes, and \$156.74 in SECA taxes, which equals \$372.89 in total taxes per month. By subtracting Appellee's total monthly tax obligation of \$372.89 from her total gross monthly income of \$1,974.68, Appellee's total net income is \$1,601.79 per month. Adding both parties' monthly net incomes equals a total net income of \$4,695.17 per month. Pursuant to Rule 1910.16-3 of the Pennsylvania Rules of Civil Procedure, a total monthly net income of \$4,695.17 corresponds to a guideline amount of \$939.00 per month. As Appellant is responsible for approximately 65.88% of the total monthly net income, he is responsible for 65.88% of the guideline amount of \$939.00, which would equal \$618.61 per month⁶. After a decrease of \$186.48 for substantial or shared custody⁷ and an increase of \$114.22 for child care expenses⁸, the current child support obligation is \$546.35 per month. After including \$24.06 per month towards arrears, Appellant is responsible for a total monthly

⁶ See PA R. Civ. P. 1910.16-4, "Part I. Basic Child Support"

⁷ See *id.*, "Part II. Substantial or Shared Physical Custody Adjustment"

⁸ See PA R. Civ. P. 1910.16-6(a).

child support obligation of \$570.41 per month, which is correctly reflected on the Interim Order dated April 10, 2014.

Appellant's argument regarding a reduction in his monthly child support obligation for "Substantial or Shared Custody," pursuant to Rule 1910.16-4 of the Pennsylvania Rules of Civil Procedure, also fails as Appellant incorrectly states the procedure of this particular section of Rule 1910.16-4. Appellant argues his percentage of the guideline child support obligation should be reduced by 30% because the parties share 50/50 custody; however, Appellant is incorrect because after proper calculation, Appellant is only entitled to a 19.86% reduction for the parties' 50/50 custody. According to the "Substantial or Shared Physical Custody Adjustment" section of Rule 1910.16-4, the percentage of time spent with the child is first reduced by 30%. In the instant case, the parties share 50/50 custody of the minor child. As reflected in the Domestic Relations Office's Share Custody Summary (See Exhibit G), Appellant is attributed 182 overnights per year with the child, which equals 49.86% of share custody⁹; so, Appellant's 49.86% of time with the child is reduced by 30%, equaling 19.86%. This 19.86% is then subtracted from Appellant's percentage of the guideline monthly child support obligation, which, as stated above, is 65.88%. Therefore, Appellant's adjusted percentage of the guideline monthly child support amount is 46.02%. By subtracting Appellant's adjusted guideline child support obligation, which equals \$432.13 (the above-referenced \$939.00 guideline amount multiplied by Appellant's adjusted percentage of 46.02%) from Appellant's original guideline child support obligation, which equals \$618.61 (the above-referenced \$939.00 guideline amount multiplied by Appellant's original percentage of 65.88%), Appellant receives a reduction for share custody in the amount of \$186.48, which is accurately reflected in the child support guideline calculations. (See Exhibit B).

Therefore, in entering the Final Order dated July 15, 2014, the Interim Order of Court dated April 10, 2014 with the final monthly child support obligation of \$546.35, plus \$24.06 per month for arrears for a total monthly child support obligation of \$570.41, was appropriately calculated and became final. Contrary to Appellant's assertions, this Trial Court in the instant case, by merely correcting procedurally two computer errors which did not affect the monthly child support obligation of \$546.35, did not "override or misapply the law," did not "exercise manifest un-reasonability in its judgment," did not "demonstrate partiality, prejudice, bias or ill-will," and otherwise did not abuse its discretion in any manner. Rather, this Trial Court properly concluded by Appellant's own stipulation that his 2014 monthly net income is \$3,093.38; this Trial Court properly found that, after hearing testimony and reviewing admitted exhibits, Appellee's 2014 monthly net income is \$1,601.79; a proper reduction for shared 50/50 custody is attributed to Appellant's monthly child support obligation pursuant to Rule 1910.16-4; and this Trial Court properly found, using these amounts of monthly net income and reductions attributable, the current child support obligation for 2014 is properly calculated at \$546.35 per month using the parties' current monthly incomes. This Trial Court finds Appellant's first argument is without merit.

⁹ 182 overnights/year divided by 365 days/year equals 49.86%.

2. This Trial Court was within its authority to enter the Clarification Order dated August 21st, 2014, whereby the Interim Order dated April 10th, 2014 was corrected to reflect the 2014 monthly net income of \$3,093.38 stipulated by Appellant and a 2014 monthly net income of \$1,601.79 for Appellee, instead of the 2013 monthly net incomes that the Domestic Relations Office computer system pulled by mistake.

Chapter 17 of the Pennsylvania Rules of Appellate Procedure governs the effects of appeals, supersedeas, and stays. *See Pa. R. A. P. 1701 et seq.* Rule 1701 of the Pennsylvania Rules of Appellate Procedure states that after an appeal is taken or review of a quasijudicial order is sought, the trial court or other government unit may no longer proceed further in the matter. *Pa. R. A. P. 1701(a)*. However, a trial court or other government unit has the limited authority after an appeal or review of a quasi-judicial order to take action necessary to preserve the status quo; correct formal errors in papers relating to the matter; cause the record to be transcribed, approved, filed and transmitted; grant leave to appeal *in forma pauperis*; grant supersedeas; and take other actions permitted by the Rules of Appellate Procedure. *See Pa. R. A. P. 1701(b)(1)*. Subdivision (b)(1) of Pa. R. A. P. 1701 sets forth the obvious authority of the lower court or agency under these rules to take appropriate action to preserve the status quo and **to clarify or correct an order or verdict**. *See Pennsylvania Industrial Energy Coalition v. Pennsylvania Public Utility Commission*, 653 A.2d 1336, 1344 (Pa. Commw. Ct. 1995) [emphasis added]. Examples of permissible corrections are “non-substantial technical amendments to an Order, changes in the form of a decree, and modification of a verdict to add pre-judgment interest.” *See id.* More specifically, where the adjudicator's action does not require the exercise of discretion, the computation is a clerical matter based on the face of the record and no fact finding is required, the amendment to an order under appeal is allowed. *Pellizzeri v. Bureau of Professional and Occupational Affairs*, 856 A.2d 297, 302 (Pa. Commw. Ct. 2004). Such actions have no effect on the appeal or petition for review and cannot prompt a new appealable issue. *See Pennsylvania Industrial Energy Coalition*, 653 A.2d at 1345.

After immediately discovering the two computer clerical errors on August 18, 2014 in the Interim Order, this Trial Court entered a Clarification Order dated August 21, 2014 to clarify these two computer clerical errors on that Interim Order. Pursuant to the Clarification Order dated August 21, 2014, the first portion of the first paragraph of the Interim Order was clarified and corrected to read:

“AND NOW, 10TH DAY OF APRIL, 2014, based upon the Court’s determination that the Payee’s monthly net income is \$1,601.79 and the Payor’s monthly net income \$3,093.38....”¹⁰

Pursuant to Pa. R. A. P. 1701(b)(1) and the relevant case law, this Trial Court was within its authority to enter the above-referenced Clarification Order as these two procedural changes do not directly affect the substance of the appeal and these two procedural changes were not substantive in nature; rather these two changes were merely clerical. This Trial Court did not exercise any discretion or any powers to change the Interim Order nor did this Trial

¹⁰ See Clarification Order dated August 21, 2014.

Court conduct fact-finding in the Interim Order; rather, these two clerical errors within the Interim Order were generated solely from PACSES and appear clearly as computer errors on the face of the Order to which Appellant and his counsel or Appellee could have seen these two computer clerical errors before the *de novo* hearing since these errors existed two months before this Trial Court held the *de novo* hearing and entered its Final Order. (See Appellant's first argument above). Additionally, after clarifying the first portion of the first paragraph of the Interim Order, this Clarification Order maintained Appellant's current monthly child support obligation of \$546.35 per month as calculated correctly and all other aspects of the Interim Order remained in full force and effect.

Furthermore, Appellant argues this Trial Court was without continuing jurisdiction to make these two procedural changes to the Interim Order entered on July 15, 2014, and corrected after thirty (30) days with a Clarification Order dated August 21, 2014. Pursuant to 42 Pa. C. S. § 5505, this Trial Court is aware that a court may modify or rescind any order within thirty days after its entry, if no appeal has been taken; however, once a notice of appeal is filed, this Trial Court cannot take further action in the matter, pursuant to Pa.R.A.P. 1701(a). *See Manack v. Sandlin*, 812 A.2d 676, 680 (Pa. Super. 2002). However, this rule must be read in conjunction with the inherent power of a trial court to amend its records, to correct mistakes of the clerk or other officer of the court, inadvertencies of counsel, or supply defects or omissions in the record, even after the lapse of the thirty (30) day time limit. *See id.*; *see also Commonwealth v. Cole*, 263 A.2d 339 (Pa. 1970) (the Pennsylvania Supreme Court held a trial court had inherent authority to correct an erroneous order two and one-half months after the 30-day statutory period allowing amendment of orders had lapsed, reasoning that "the 1959 statute was never intended to eliminate the inherent power of a court to correct obvious and patent mistakes in its orders, judgments and decrees."). In the instant case, the Interim Order was made final on July 15, 2014, but dated April 10, 2014 to reflect the effective date of the Appellee's filing the Petition for Modification. Neither Appellant's counsel nor Appellee brought to this Trial Court's attention the two patent mistakes of the use of 2013 prior monthly net incomes in the Interim Order of April 10, 2014. Appellant's counsel even stipulated to Appellant's 2014 monthly net income as \$3,093.38. Patently, the computer's use of the monthly net income of \$2,455.38 for Appellant and the use of Appellee's 2013 monthly net income instead of this Trial Court's finding of her 2014 updated monthly net income were in error. Therefore, pursuant to the holdings in *Manack* and *Cole*, this Trial Court was within its authority to enter the Clarification Order dated August 21, 2014, whereby the Interim Order dated April 10, 2014 was clarified and corrected to reflect the proper 2014 monthly income as stipulated by Appellant's counsel and the proper 2014 monthly net income for the Appellee as found by this Trial Court, even after thirty (30) days had elapsed. This Trial Court finds Appellant's second argument is without merit.

C. Conclusion

For the foregoing reasons, this Trial Court finds the instant Appeal is without merit.

BY THE COURT:

/s/ **Stephanie Domitrovich, Judge**

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

R.L.R., Appellee

v.

S.P.S., Appellant

IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 1341 WDA 2014

Appeal from the Order July 15, 2014

In the Court of Common Pleas of Erie County

Domestic Relations at No(s): NS201300044, Pages No. 921113743

R.L.R., Appellee

v.

S.P.S., Appellant

IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 1645 WDA 2014

Appeal from the Order August 21, 2014

In the Court of Common Pleas of Erie County

Domestic Relations at No(s): NS201300044, Pages No 921113743

BEFORE: PANELLA, J., SHOGAN, J., and OTT, J.

MEMORANDUM BY OTT, J.:

FILED JUNE 24, 2015

S.P.S.¹ ("Father") appeals from the support orders entered July 15, 2014, and August 21, 2014, in the Erie County Court of Common Pleas. The July 15, 2014, order made final an interim order entered April 10, 2014, directing Father to pay R.L.R. ("Mother") \$570.41 in monthly support for their son ("child"), born August of 2009. The August 21, 2014, order corrected a clerical error in the April 10, 2014, interim order with regard to the parties' respective monthly incomes. The appeals were later consolidated *sua sponte* by this Court. On appeal, Father argues (1) the support obligation set forth in the July 15, 2014, order was not supported by the facts of record, and (2) the trial court had no jurisdiction to enter the August 21, 2014, order. For the reasons that follow, we affirm.

The relevant facts and procedural history of this case are as follows. Mother filed a complaint on January 11, 2013, seeking child support from Father.² When she failed to appear for the scheduled child support conference, the complaint was dismissed. Thereafter, Mother filed a second child support complaint on March 13, 2013. A support conference was held on April 4, 2013, and, that same day, the trial court entered a final order directing Father to pay \$175.94 per month in child support, based upon its determination that Father had a net monthly income of \$2,445.38, and Mother had a net monthly income of \$2,171.05.³

On March 6, 2014, Mother filed a petition for modification, claiming, *inter alia*, her income had decreased. The parties participated in a modification conference on April 9, 2014. The next day, the court entered an interim order, based upon the conference officer's

¹ "Although the record and the briefs identify the parties by their full names, we will identify the parties in both the caption and in this memorandum by their initials to preserve their privacy." *E.W. v. T.S.*, 916 A.2d 1197, 1199 (Pa. Super. 2007).

² The record is unclear whether Mother and Father were ever married.

³ The trial court notes in its opinion that an agreement was reached between the parties. See Trial Court Opinion, 10/14/2014, at 3.

summary, directing Father to pay \$570.41 per month in child support, including arrears. Although the summary listed Mother's net monthly income as \$1,601.79, and Father's net monthly income as \$3,093.38, the interim order incorrectly repeated the original net monthly income amounts for Mother and Father, as reflected in the prior April 4, 2013, order (i.e., \$2,171.05 for Mother and \$2,455.38 for Father). *See* Summary of Trier of Fact, 4/10/2014, at 2; Interim Order, 4/10/2014. However, the monthly support payment was correctly stated on the interim order as \$570.41 per month. *See* Interim Order, 4/10/2014.

On April 28, 2014, Father filed a demand for a *de novo* hearing, contending Mother's income was "under-reported" and that she was "voluntarily under-employed." Demand for Court Hearing, 4/28/2014. A hearing was conducted on July 11, 2014, during which Father's counsel stipulated that Father's net monthly income for support purposes was \$3,093.38. N.T., 7/11/2014, at 5. Thereafter, the trial court entered an order on July 15, 2014, making the April 10, 2014, interim order final. Father filed a timely appeal and concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b).

While that appeal was pending, the trial court was informed by the Erie County Domestic Relations Office that the April 10, 2014, interim order contained a clerical error, namely, the order listed the incorrect respective incomes of the parties. Accordingly, on August 21, 2014, the court entered a clarification order, in which it explained that, in the April 10, 2014, interim order, the Domestic Relations computer system "incorrectly pulled [the] parties' respective incomes from a prior Final Order," i.e., the April 4, 2013, order, and stated that the April 10, 2014, order should have reflected Mother's income as \$1,601.79 per month, and Father's income as \$3,093.38 per month. Clarification Order, 8/21/2014. The court also noted that all other aspects of the prior order, including Father's support obligation of \$570.41 per month, remained the same. *See id.* Father filed a second appeal, and concise statement, from the August 21, 2014, clarification order. As noted above, this Court consolidated the appeals *sua sponte*.

When considering a trial court's decision to modify a child support award, our standard of review is well settled:

A trial court's decision regarding the modification of a child support award will not be overturned absent an abuse of discretion, namely, an unreasonable exercise of judgment or a misapplication of the law. *See Schoenfeld v. Marsh*, 418 Pa.Super. 469, 614 A.2d 733, 736 (1992). An award of support, once in effect, may be modified *via* petition at any time, provided that the petitioning party demonstrates a material and substantial change in their circumstances warranting a modification. *See* 23 Pa.C.S.A. § 4352(a); *see also* Pa.R.C.P. 1910.19. The burden of demonstrating a "material and substantial change" rests with the moving party, and the determination of whether such change has occurred in the circumstances of the moving party rests within the trial court's discretion. *See Bowser v. Blom*, 569 Pa. 609, 807 A.2d 830 (2002).

Plunkard v. McConnell, 962 A.2d 1227, 1229 (Pa. Super. 2008), *appeal denied*, 980 A.2d 111 (Pa. 2009).

Father raises two claims on appeal, which we will address together. First, Father contends the July 15, 2014, order was erroneous because the parties' respective net monthly incomes, as reflected in that order, suggested Father's monthly support obligation to Mother should

have amounted to only \$214.59 per month. Furthermore, because Father shares 50% custody of child, he argues his support obligation should be further reduced to \$142.11 per month.

Second, Father asserts the August 21, 2014, clarification order was a nullity because (1) the changes to the July 15, 2014, order were made after more than 30 days had passed in violation of 42 Pa.C.S. § 5505,⁴ and (2) the trial court had no jurisdiction to take any further action in this matter, pursuant to Pa.R.A.P. 1701, after Father filed an appeal from the July 15, 2014 Order.⁵ Although Father recognizes that Rule 1701 permits a court to take certain action, such as correct clerical errors, after an appeal is filed, he argues that, the August 21, 2014, clarification order sought "to change the findings of fact after an appeal [had] already been taken, so that the conclusion of law [was] supportable." Father's Brief at 15.

After a comprehensive review of the record, the parties' briefs, and the relevant statutory and case law, we find that the trial court's October 14, 2014, opinion provides a thorough and well-reasoned discussion of the issues raised by Father on appeal. Accordingly, we adopt the sound reasoning of the trial court as dispositive.⁶ See Trial Court Opinion, 10/14/2014, 6-18 (explaining that (1) record of July 11, 2014, *de novo* hearing supported factual finding that Father's net monthly income was \$3,093.38, as stipulated, and Mother's net monthly income was \$1,601.79; (2) the monthly child support award of \$570.41 was calculated properly under the support guidelines with credit to Father for shared custody; (3) Father's support calculations rest "upon the procedurally defective Interim Order dated April 10, 2014, which, due to computer clerical errors in the Erie County Domestic Relations computer system, incorrectly reflected" the parties' respective incomes;⁷ (4) the Conference Summary of Trier of Fact, drafted by the conference officer after the April 8, 2014, hearing, correctly stated the parties' respective net monthly incomes; (5) Father's counsel stipulated to his net monthly income of \$3,093 during the *de novo* hearing; (6) the \$570.41 monthly support amount did include a credit for Father's shared custody; and (7) the court acted within its inherent authority to correct two clerical errors in the prior order, caused by the Domestic Relations computer system).⁸

Because we conclude Father is entitled to no relief, we affirm the orders on appeal. Orders affirmed.

⁴ The statute provides as follows:

Except as otherwise provided or prescribed by law, a court upon notice to the parties may modify or rescind any order within 30 days after its entry, notwithstanding the prior termination of any term of court, if no appeal from such order has been taken or allowed.

42 Pa.C.S. § 5505.

⁵ Rule 1701 states that "after an appeal is taken or review of a quasijudicial order is sought, the trial court or other government unit may no longer proceed further in the matter." Pa.R.A.P. 1701(a).

⁶ We have redacted the names of Father, Mother, and Child from the copy of the trial court opinion attached to our memorandum decision. We direct the parties to attach a redacted copy of the opinion in the event of further proceedings.

⁷ Trial Court Opinion, 10/14/2014, at 9. See also *id.* at 9-10 (detailing how computer error occurred), and Exhibit A (email correspondence regarding computer error).

⁸ See *Manack v. Sandlin*, 812 A.2d 676, 680 (Pa. Super. 2002) (explaining 42 Pa.C.S. § 5505 and Pa.R.A.P. 1701 "must be read in conjunction with the inherent power of the courts 'to amend its records, to correct mistakes of the clerk or other officer of the court, inadvertencies of counsel, or supply defects or omissions in the record, even after the lapse of the term.'") (citation omitted), *appeal denied*, 819 A.2d 548 (Pa. 2003).

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CHANGE OF NAME NOTICE

Notice is hereby given that on December 8, 2015, the Petition of Shannon M. Callahan was filed in the Court of Common Pleas at Docket No. 2015-13428 of Erie County, PA requesting the Change of Name of Elijah M. Diaz DeLeon to Elijah M. Callahan. The Court has set February 18, 2016 at 9:00 a.m. in Court Room G of the Erie County Court House, 140 West Sixth Street, Erie, PA 16501 as the day, time and place of the hearing on said petition. All interested parties may attend and show cause, if any, why the petition should not be granted.

Dec. 18

FICTITIOUS NAME NOTICE

Pursuant to Act 295 of December 16, 1982 notice is hereby given of the intention to file with the Secretary of the Commonwealth of Pennsylvania a "Certificate of Carrying On or Conducting Business under an Assumed or Fictitious Name." Said Certificate contains the following information:

FICTITIOUS NAME NOTICE

Notice is hereby given that an Application for Registration of a Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on October 2, 2015 for Pranayoga located at 1001 West 6th St., Erie, PA 16507. The name and address of each individual interested in the business is Erin L. Fleming, 1001 West 6th St., Erie, PA 16507. This was filed in accordance with 54 Pa.C.S. 311.

Dec. 18

FICTITIOUS NAME NOTICE

Notice is hereby given that an Application for Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on October 29, 2015 for Shiny New Tub Refinishing located at 2360 Rice Ave., Lake City, PA 16423. The name and address of each individual interested in the business is James L. Saliade Jr. 2360 Rice Ave., Lake City, PA 16423. This was filed in accordance with 54 Pa.C.S. 311.

Dec. 18

FICTITIOUS NAME NOTICE

1. Fictitious Name: Skinner Power Systems
2. Name and address of the principal place of business: 8212 Edinboro Road, Erie, Pennsylvania 16509
3. Name and address of the party to the registration: Time Machine, Inc., 1746 Pittsburgh Road, Polk, Pennsylvania 16342
4. The application for registration of the fictitious name under the Fictitious Names Act was filed on or about November 19, 2015 with the Pennsylvania Department of State.

Dec. 18

**LEGAL NOTICE
TERMINATION OF
INACTIVE CASES**

Pursuant to Pa.R.J.A. 1901, and Court Order dated 12/3/2015, the cases listed in the October 16, 2015, *Erie County Legal Journal* are terminated and dismissed, except for cases at the following docket numbers:

| | |
|----------|----------|
| 10524-05 | 14560-11 |
| 10175-07 | 10685-12 |
| 15156-07 | 11769-12 |
| 14371-08 | 12781-12 |
| 15748-08 | 14086-12 |
| 13621-09 | 14141-12 |
| 14974-10 | 10579-13 |
| 15638-10 | 10868-13 |
| 10477-11 | |

Erie County Prothonotary

Dec. 18

LEGAL NOTICE

ATTENTION: MICHAEL ALEXANDER HIGBY INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

IN THE MATTER OF THE ADOPTION OF MINOR MALE CHILD A.A.H DOB: April 6, 2012 BORN TO: AMBER KELLY MEAHL 79 IN ADOPTION 2015

If you could be the parent of the above mentioned child, at the instance of Erie County Office of Children and Youth you, laying aside all business and excuses whatsoever, are hereby cited to be and appear before the Orphan's Court of Erie County, Pennsylvania, at the Erie County Court House, Judge Sambroak, Jr., Court Room No 217-I City of Erie

on February 26, 2016 at 1:30 p.m. and there show cause, if any you have, why your parental rights to the above child should not be terminated, in accordance with a Petition and Order of Court filed by the Erie County Office of Children and Youth. A copy of these documents can be obtained by contacting the Erie County Office of Children and Youth at (814) 451-7740.

Your presence is required at the Hearing. If you do not appear at this Hearing, the Court may decide that you are not interested in retaining your rights to your children and your failure to appear may affect the Court's decision on whether to end your rights to your child. You are warned that even if you fail to appear at the scheduled Hearing, the Hearing will go on without you and your rights to your child may be ended by the Court without your being present.

You have a right to be represented at the Hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer, or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Family/Orphan's Court Administrator
Room 204 - 205
Erie County Court House
Erie, Pennsylvania 16501
(814) 451-6251

NOTICE REQUIRED BY ACT 101 OF 2010: 23 Pa. C.S §§2731-2742. This is to inform you of an important option that may be available to you under Pennsylvania law. Act 101 of 2010 allows for an enforceable voluntary agreement for continuing contact or communication following an adoption between an adoptive parent, a child, a birth parent and/or a birth relative of the child, if all parties agree and the voluntary agreement is approved by the court. The agreement must be signed and approved by the court to be legally binding. If you are interested in learning more about this option for a voluntary agreement, contact the Office of Children and Youth at (814) 451-7726, or contact your adoption attorney, if you have one.

Dec. 18

LEGAL NOTICE

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

MARCUS R. BRIGHT AND JENNIFER M. BRIGHT, Plaintiffs
vs.

ATIASHA MONIQUE WILLIAMS AND JAMAL JONES, Defendants
No. CI-15-09257
CUSTODY

ORDER OF COURT

You, Atiasha Monique Williams, Defendant, and Jamal Jones, Defendant, have been sued in Court to obtain sole legal and physical custody of the child: E'mani King Jones, born August 21, 2014.

1. **You are ordered** to appear in person at 50 North Duke Street, Lancaster County Courthouse, Lancaster, Pennsylvania, on the 12th day of January, 2016 at 1:30 o'clock

p.m., for a risk of harm hearing to be held in Courtroom number 11, before the Honorable Leslie Gorbey.

2. Pending the custody conference:

The Court enters the following Temporary Order:

Plaintiffs, Marcus R. Bright and Jennifer M. Bright, are granted sole legal and physical custody of E'mani King Jones. Plaintiffs are not required to provide Defendant, Jamal Jones, with notice of any proceedings concerning custody of E'mani King Jones unless Defendant, Atiasha Monique Williams, provides a current address for him or Defendant, Jamal Jones, contacts the Court to participate in these proceedings. Plaintiffs are permitted to serve Defendant Jamal Jones by publication in accordance with rule 430.

AMERICANS WITH DISABILITIES ACT OF 1990
The Court of Common Pleas of

Lancaster County is required by law to comply with the Americans With Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the Court please contact our office. All arrangements must be made at least seventy-two (72) hours prior to any hearing or business before the Court. You must attend the scheduled conference or hearing.

Date: October 29, 2015
Notice of entry of order or decree pursuant to Pa.R.C.P. No. 236
Notification - the attached document has been filed in this case
Prothonotary of Lancaster Co., PA
Date: 10/30/15

Dec. 18, 25

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**AUDIT LIST
NOTICE BY
KENNETH J. GAMBLE**

**Clerk of Records,
Register of Wills and Ex-Officio Clerk of
the Orphans' Court Division, of the
Court of Common Pleas of Erie County, Pennsylvania**

The following Executors, Administrators, Guardians and Trustees have filed their Accounts in the Office of the Clerk of Records, Register of Wills and Orphans' Court Division and the same will be presented to the Orphans' Court of Erie County at the Court House, City of Erie, on **December 28, 2015** and confirmed Nisi.

January 21, 2016 is the last day on which Objections may be filed to any of these accounts.

Accounts in proper form and to which no Objections are filed will be audited and confirmed absolutely. A time will be fixed for auditing and taking of testimony where necessary in all other accounts.

2016 ESTATE

ACCOUNTANT

ATTORNEY

| | | |
|---|---|-------------------------------|
| 335. Gerald W. King a/k/a Buzz King | Ted J. Padden and S.E. Riley Jr., Co-Executors | Ted J. Padden, Esquire |
| 336. Stephem M. Webb | Adam Clark, Administrator | Diane E. Hasek, Esquire |
| 337. Donald E. Newcomer, Donald E. Newcomer Jr. | Elva Newcomer-Kocher, Executrix | Zanita Zacks-Gabriel, Esquire |
| 338. Audrey Tong | Rev. Joseph V. Wardanski, Executor | Gary K. Schonhaler, Esquire |
| 339. William A. Reese | Gertrude A. Burford, Executrix | Gary H. Nash, Esquire |

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Clerk of Records
Register of Wills &
Orphans' Court Division

Dec. 18, 25



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ESTATE NOTICES

Notice is hereby given that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same and all persons indebted to said estates are requested to make payment without delay to the executors or their attorneys named below.

FIRST PUBLICATION

**CONNORS, CECELIA M., a/k/a
CECELIA CONNORS, a/k/a
CECELIA M. PRESOGNA, a/k/a
CECELIA PRESOGNA,
deceased**

Late of the City of Erie, County of Erie and State of Pennsylvania
Executrix: Denise M. Connors, 236 NE 9th Street, Delray Beach, FL 33444

Attorney: Aaron E. Susmarski, Esq., 4030 West Lake Road, Erie, PA 16505

**DETZEL, MARK J.,
deceased**

Late of the County of Erie, Commonwealth of Pennsylvania
Executor: Paul R. Detzel, 530 Mohawk Drive, Erie, PA 16505
Attorney: Thomas S. Talarico, Esquire, Talarico & Niebauer, 510 Cranberry Street, Suite 301, Erie, PA 16507

**HURLBERT, MARY LOU,
deceased**

Late of Harborcreek Township, Erie County, Commonwealth of Pennsylvania
Administrator: Donald Leroy Wolfgang, 5404 Frederick Dr., Erie, PA 16510
Attorney: None

**KINSINGER, JOHN M.,
deceased**

Late of the City of Erie, Erie County, PA
Executor: Richard A. Harris, c/o 120 West 10th Street, Erie, PA 16501
Attorney: Christine Hall McClure, Esquire, Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**KOLB, LEONARD E.,
deceased**

Late of Millcreek Township, Erie County, Commonwealth of Pennsylvania
Co-Administrators C.T.A.: Leonard R. Kolb and Susan A. Neal, c/o Jerome C. Wegley, 120 West Tenth Street, Erie, PA 16501
Attorney: Jerome C. Wegley, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**KOPNITSKY, GERALDINE,
deceased**

Late of the Township of Summit, County of Erie and Commonwealth of Pennsylvania
Administratrix: Sandra S. McLaughlin, c/o 3305 Pittsburgh Avenue, Erie, Pennsylvania
Attorney: Darlene M. Vlahos, Esquire, 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508

**KRAHE, PHYLLIS, a/k/a
PHYLLIS E. KRAHE, a/k/a
PHYLLIS NAGLE, a/k/a
PHYLLIS ELAINE KRAHE,
deceased**

Late of the Township of Springfield, Commonwealth of Pennsylvania
Executrix: Nancy A. DeMichele, 12083 West Ridge Road, East Springfield, Pennsylvania 16411
Attorney: C. James Vendetti, Esq., Vendetti & Vendetti, 3820 Liberty Street, Erie, Pennsylvania 16509

**KUPNIEWSKI, JOHN,
deceased**

Late of the City of Erie, County of Erie, and Commonwealth of Pennsylvania
Co-Executors: Kevin J. Kupniewski, 1345 West 33rd Street, Erie, PA 16508 and Christopher A. Kupniewski, 326 Parkway Drive, Erie, PA 16511
Attorney: Thomas S. Kubinski, Esquire, The Conrad - F.A. Brevillier House, 502 Parade Street, Erie, PA 16507

**MIX, MICHAEL A., a/k/a
MICHAEL MIX,
deceased**

Late of the Borough of Lake City, County of Erie, State of Pennsylvania
Administratrix: Geraldine J. Mix, 9923 Sampson Avenue, Lake City, PA 16423
Attorney: Grant M. Yochim, Esq., 24 Main St. E., PO Box 87, Girard, PA 16417

**MOFFAT, JUVIA,
deceased**

Late of the Township of Millcreek, Erie County, Pennsylvania
Executor: Holly Moffat, c/o Martone & Peasley, 150 West Fifth Street, Erie, Pennsylvania 16507
Attorney: Joseph P. Martone, Esquire, Martone & Peasley, 150 West Fifth Street, Erie, Pennsylvania 16507

**PIAZZA, RALPH C.,
deceased**

Late of Union City Borough, Erie County, Pennsylvania
Executor: Darryl G. Coveleski, 15401 Old Wattsburg Road, Union City, PA 16438
Attorney: Randy L. Shapira, Esq., 305 West Sixth Street, Erie, PA 16507

**RIAZZI, ANTOINETTE D.,
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Co-Administrators: Carol A. Russell, 3931 English Ave., Erie, PA 16510 and Mary Kay Torok, 1417 W. 32nd St., Erie, PA 16508
Attorney: None

**ROMBA, RAYMOND, a/k/a
RAYMOND E. ROMBA,
deceased**

Late of the Township of Waterford, County of Erie and State of Pennsylvania
Executor: Jeffrey Allen Romba, c/o David R. Devine, Esq., 201 Erie Street, Edinboro, PA 16412
Attorney: David R. Devine, Esq., 201 Erie Street, Edinboro, PA 16412

**WILSON, EUGENE V.,
deceased**

Late of Girard Township, County of Erie
Executor: Jeffrey L. Wilson, 8471 Peach Street, Girard, PA 16417
Attorney: Thomas A. Testi, Esq., 3952 Avonia Road, PO Box 413, Fairview, PA 16415

SECOND PUBLICATION**CORNISH, REBECCA L.,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: Thomas S. Kubinski, 502 Parade Street, Erie, PA 16507
Attorney: Thomas S. Kubinski, Esq., 502 Parade Street, Erie, PA 16507

**KENNEDY, EVELYN J.,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Michele Myer-Knauer, c/o 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508
Attorney: Darlene M. Vlahos, Esquire, 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508

**MCGEARY, HOPE A.,
deceased**

Late of the Township of Millcreek, Erie County, PA
Executor: Charles P. McGeary, c/o 120 West 10th Street, Erie, PA 16501
Attorney: Thomas C. Hoffman II, Esquire, Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**MUSGRAVE, JOYCE, a/k/a
JOYCE HILLIARD,
deceased**

Late of Erie, PA, Erie County
Executor: Aaron DeMatteis, c/o 3618 W. 12th Street, Erie, PA 16505
Attorney: None

**PAGE, KENNETH W., a/k/a
KENNETH PAGE,
deceased**

Late of the Township of North East, Erie County, PA
Executrix: Sharon L. Chesley, c/o 120 West 10th Street, Erie, PA 16501
Attorney: Christine Hall McClure, Esquire, Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**RIDGWAY, HOPE D.,
deceased**

Late of the City of Erie, Commonwealth of Pennsylvania
Co-Executors: Patricia R. Luffe and John C. Ridgway, Jr., c/o Joseph B. Spero, Esquire, 3213 West 26th Street, Erie, Pennsylvania 16506
Attorney: Joseph B. Spero, Esquire, 3213 West 26th Street, Erie, Pennsylvania 16506

**ROPSKI, IRENE S., a/k/a
IRENE STEFANIA ROPSKI,
a/k/a IRENE M. ROPSKI,
a/k/a IRENE ROPSKI,
deceased**

Late of the City of Erie, County of Erie, State of Pennsylvania
Executor: Steven J. Ropski, 4411 Perkins Street, Erie, PA 16509
Attorney: James R. Steadman, Esq., 24 Main St. E., PO Box 87, Girard, PA 16417

**SMITH, M. IRENE,
deceased**

Late of Millcreek Township, Erie County, Pennsylvania
Executor: Dennis W. Smith, 2152 North Manor Drive, Erie, PA 16505
Attorney: Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

THIRD PUBLICATION**BAMBAUER, TRESSA M.,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: Anthony G. Bambauer, c/o 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508
Attorney: Darlene M. Vlahos, Esquire, 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508

**BRZOZOWSKI, DENNIS M.,
deceased**

Late of the City of Erie, County of Erie
Executor: Joseph M. Bolash, Jr., 912 McConnell Avenue, Erie, Pennsylvania 16505
Attorney: Kari A. Froess, Esquire, Carney & Good, 254 West Sixth Street, Erie, Pennsylvania 16507

**CIRINO, GEORGE E.,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Administrator: PA Soldiers' & Sailors' Home, c/o Stephen J. Bushinski, Esquire
Attorney: Stephen J. Bushinski, Esquire, Office of Chief Counsel, Commonwealth of Pennsylvania, Department of Military and Veterans Affairs, Building 7-36, Fort Indiantown Gap, Annville, PA 17003-5002

**CONLEY, THERESA N., a/k/a
THERESA CONLEY,
deceased**

Late of the Township of Millcreek,
County of Erie and Commonwealth
of Pennsylvania

Executor: Daniel Conley, c/o
Yochim, Skiba & Nash, 345 West
Sixth Street, Erie, PA 16507

Attorney: Gary H. Nash, Esq.,
Yochim, Skiba & Nash, 345 West
Sixth Street, Erie, PA 16507

**DOYLE, MARY ANN,
deceased**

Late of the Borough of North
East, County of Erie, State of
Pennsylvania

Administrator: Gregory A. Doyle,
c/o 78 East Main Street, North
East, PA 16428

Attorney: John C. Brydon, Esq.,
Brydon Law Office, 78 East Main
Street, North East, PA 16428

**ESPOSITO, DOMINICK F., SR.,
a/k/a DOMINICK F. ESPOSITO,
deceased**

Late of the City of Erie, County
of Erie and Commonwealth of
Pennsylvania

Executor: Dominick F. Esposito,
Jr., c/o 3305 Pittsburgh Avenue,
Erie, Pennsylvania 16508

Attorney: Darlene M. Vlahos,
Esquire, 3305 Pittsburgh Avenue,
Erie, Pennsylvania 16508

**FILER, KENT T.,
deceased**

Late of the City of Erie, County
of Erie and State of Pennsylvania

Executor: Carol L. Wiercinski, c/o
Denis W. Krill, P.C., 309 French
Street, Erie, Pennsylvania 16507

Attorney: Denis W. Krill,
Esquire, 309 French Street, Erie,
Pennsylvania 16507

**MUCK, WILLIAM F.,
deceased**

Late of the Township of Fairview,
County of Erie, Commonwealth of
Pennsylvania

Executrix: Margaret J. Muck,
6120 Bridlewood Drive, Fairview,
PA 16415

Attorneys: MacDonald, Illig, Jones
& Britton, LLP, 100 State Street,
Suite 700, Erie, Pennsylvania
16507-1459

**PAKELA, THOMAS E.,
deceased**

Late of the City of Erie

Executor: Joyce M. Edwards,
c/o 246 West 10th Street, Erie,
PA 16501

Attorney: Evan E. Adair, Esq., 246
West 10th Street, Erie, PA 16501

**POST, VENNETTE, a/k/a
VENETTE POST
deceased**

Late of the City of Erie, County
of Erie, Commonwealth of
Pennsylvania

Executrix: Paula Demeter, c/o
Sterrett Mott Breski & Shimek,
345 West 6th Street, Erie, PA 16507

Attorney: John J. Shimek, III, Esq.,
Sterrett Mott Breski & Shimek, 345
West 6th Street, Erie, PA 16507

**SCALZITTI, THOMAS J.,
deceased**

Late of the County of Erie,
Commonwealth of Pennsylvania

Administrator: Thomas J. Scalzitti,
228 Irwin Avenue, Apartment 3,
Pittsburgh, PA 15205

Attorney: Thomas S. Talarico,
Esquire, Talarico & Niebauer, 510
Cranberry Street, Suite 301, Erie,
PA 16507

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